

TOWN OF DOVER

ZONING BOARD OF ADJUSTMENT

- ☐ John R. Frister
- ☐ Paul Schmolkie
- ☐ Richard Fox
- ☐ Larry Davis
- ☐ Gilbert Roman
- ☐ Antonio Acosta
- ☐ Austin Nieves

TOWN OF DOVER

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- ☐ TC McCourt (Alternate I)
- ☐ Vacant (Alternate II)
- ☐ Glenn C. Kienz – Board Attorney
- ☐ Stephen Hoyt – Board Engineer
- ☐ John McDonough – Board Planner
- ☐ Paula Mendelsohn – Board Secretary

Agenda for the Zoning Board of Adjustment Meeting

Thursday, September 04, 2025

REGULAR MEETING

1. Call to Order – Reading of the New Jersey Open Public Meetings Notice.

“This meeting is being held in accordance with the Open Public Meetings Act, also known as the Sunshine Law, N.J.S.A. 10:4-6. Notice of the 2025 meeting schedule was sent to the Daily Record and published in the Daily Record on February 3, 2025. The annual meeting list was also posted on the municipal bulletin board in Town Hall, on the Town of Dover website and submitted to the Town Clerk. As a reminder there is no smoking in this building; there are 2 exits in case of emergency and this meeting is not streaming on Facebook live. However, the audio will be posted in a timely manner to the town website.”

2. Roll Call

Name	Present	Absent	Excused
Chairman John R. Frister			
Vice Chairman Paul Schmolke			
Commissioner Richard Fox			
Commissioner Larry Davis			
Commissioner Gilbert Roman			
Commissioner Antonio Acosta			
Commissioner Austin Nieves			
Commissioner T.C. McCourt			
Alternate II - Vacant			

3. Pledge of Allegiance

4. Approval of Minutes - April 3rd, 2025

5. Resolutions

- a. **Z25-01** – Angela Guridy

6. Applications

- **Z25-03 – 13 Richboynton Rd.- Block 803 – Lot 2** The applicant is proposing to construct a 47'x79' utility storage building and associated improvements, including 4' high chain link fence and retaining wall, concrete pavement and bollards. The subject property lies within the IND Industrial District.
- **Z25-04 – 158 W. Clinton St. – Block 703 – Lot 8** The applicant, Dover Business Park LLC, is seeking a Section 68 Courtesy Review of the existing use of the subject property at Block 703 Lot 8. According to the letter prepared by Calli Law LLC, a portion of the property is currently utilized as a residential dwelling, which is not permitted within this district. The Applicant has been issued a violation by the Town of Dover dated March 28, 2025, under Complaint No. 1409 SC 2025 0033293/94 denoting “no certificate of compliance for an illegal dwelling on Unit C.” There are no improvements proposed on-site. The subject property lies within the IND Industrial District.
- **Z25-05 – 226 E McFarlan Street - Block 1318 - Lot 9** The subject property currently consists of an asphalt parking lot with a concrete pad that contains broken cinder blocks within the C-2 General Commercial District. The Applicant proposes to redevelop the site into a Used Car Dealership containing a 1-story office building with a 480 SF footprint. Site improvements consist of on-site parking, drainage, landscaping, and signage. The application is exempt from Morris County Planning Board review.

7. Open to the Public

8. Old Business - None

9. New Business - None

10. Adjournment

Next meeting is October 2, 2025 @ 7:00PM

TOWN OF DOVER BOARD OF ADJUSTMENT

- John R. Frister - Chairman
- Paul Schmolke - Vice Chairman
- Richard Fox
- Larry Davis
- Gilbert Roman
- Antonio Acosta
- Austin Nieves

COUNTY OF MORRIS
37 NORTH SUSSEX STREET
DOVER, NEW JERSEY 07801
Office location 100 Princeton Ave
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Telephone: 973-366-2200 (Ext. 2141)

- T.C. McCourt (Alternate I)
- Vacant (Alternate II)
- Glenn C. Kienz Esq. – Board Attorney
- Paula Mendelsohn - Board Secretary
- Stephen Hoyt PE- Board Engineer
- John McDounough- Board Planner

MINUTES April 3, 2025

CALL TO ORDER:

Chairman Frister called the meeting to order at 7:00 PM.

ROLL CALL

PRESENT: Commissioners McCourt, Nieves, Fox, Vice Chairman Schmolke, and Chairman Frister

ALSO PRESENT: Glenn Kienz Esq., Board Attorney, Stephen Hoyt, Board Engineer, and Paula Mendelsohn, Board Secretary

ABSENT: Commissioner Acosta, Roman, and Davis

PLEDGE OF ALLEGIANCE:

Was recited by all present.

ADEQUATE NOTICE OF MEETING:

Was read by Ms. Paula Mendelsohn.

MINUTES: None.

RESOLUTION:

BOA2025-04 Mr. Glenn Kienz Esq.; appointed as the Board Attorney

- Commissioner McCourt made a motion to memorialize the resolution as written, seconded by Vice Chairman Schmolke. All in favor. **APPROVED 6-0.**

BOA2025-05 Paula Mendelsohn; appointed as the Board Secretary

- Commissioner McCourt made a motion to memorialize the resolution as written, seconded by Vice Chairman Schmolke. All in favor. **APPROVED 6-0.**

Mr. Glenn Kienz, Board Attorney, duly swore in Mr. Stephen Hoyt as the Board Engineer and Mr. McDonough as the Board Planner for the meeting held last night and for the remainder of the calendar year.

CASES

- **Z25-01- 29 Perry Street** The subject property identified as Block 2022 Lot 1 currently contains two (2) buildings; a non-conforming single-family dwelling, which the Applicant intends to retain, and a commercial building, which the Applicant proposes to convert into a live-work unit designed to accommodate a small-scale business. The first floor of the commercial building will be used for

commercial purposes while the second floor will be used for residential purposes. It does not appear that any external site improvements are proposed as part of this application. The subject property is located within the C-2 General Commercial District.

Nicolas Graviano, Planner, was present on behalf of applicant:

- **D1 Use Variance** requested due to two principal structures on one lot.
- **Parking Variance:** Relief from the requirement of 8 off-street parking spaces; 4 are existing and proposed.
- **Waiver of Site Plan** requested due to no proposed changes to site layout.
- Convert the former salon into a live-work unit: first-floor commercial use; second-floor studio apartment.
- Occupant of the apartment will also operate the business.
- No substantial impairment to the zone plan or ordinance.
- Parking demand reduced compared to previous use.
- Clarified egress and fire safety concerns.
- Emphasis on limiting occupancy to a single live-work tenant to address parking.

Conditions Suggested:

- Inclusion of the bulk table on the final site plan.
- Compliance with applicable building codes and ordinance signage requirements.
- Limitation of commercial uses to specified low-intensity options.
- Live-work requirement: single individual to occupy both residential and commercial components.
- Parking area shall be striped to delineate the off-street parking spaces, per suggestion by Mr. McCourt and as requested by Mr. Nieves.

Chairman Frister opened the meeting to the public. Seeing none, Chairman Frister closed the meeting to the public.

Mr. McCourt made a motion to approve the application, including the D1 use variance, parking variance, and waiver of the site plan, subject to all conditions discussed and agreed upon during the hearing.

NEW BUSINESS: None

OLD BUSINESS: None

PUBLIC COMMENT: None

Meeting adjourned at 7:40 PM

Respectfully submitted,

Paula Mendelsohn
Board of Adjustment Secretary

Dated: _____

RESOLUTION
Town of Dover
Board of Adjustment
In the Matter of Angela Guridy
Application Number Z25-01
Decided on April 3, 2025
Memorialized on May 1, 2025
Waiver of Site Plan Approval and Use Variance Relief

WHEREAS, Angela Guridy (hereinafter the "Applicant") has made application to the Dover Board of Adjustment for waiver of site plan approval and use variance relief for property known as Block 2022, Lot 1, as shown on the Tax Map of the Town of Dover, located at 29 Perry Street, in the C-2 General Commercial Zone (hereinafter the "Subject Property"); and,

WHEREAS, a public hearing was held on April 3, 2025, after the Board determined it had jurisdiction; and,

WHEREAS, the Applicant was not represented by counsel.

NOW THEREFORE, the Board of Adjustment makes the following findings of fact, based on evidence presented at its public hearing, at which a record was made.

The application before the Board is a request for a use variance along with a waiver of site plan approval in order to convert an existing commercial building into a live-work unit with the first floor containing commercial space and the second floor a residence therein triggering a use variance for a second principal use on the Subject Property where a pre-existing non-conforming single-family dwelling is already on site.

Appearing and testifying on behalf of the Applicant was Nicholas Graviano, a licensed professional planner in the State of New Jersey.

Mr. Graviano reviewed the site indicating that at the present time the front of the parcel contains approximately 4,310 square feet with a 2½ story single-family dwelling having a street address of 29 Perry Street along with a 1-story masonry building located to the rear with an address

of 256 Route 46. At the present time the masonry building is vacant but was previously used as a beauty salon. He noted that there are currently four (4) parking spaces on the parcel. It is the Applicant's intent to occupy the vacant building and have a small scale commercial use such as, by way of example, a barbershop, beauty salon, artist/photography studio, offices, a tattoo parlor, or real estate business, in the building. The operator of that business would also live on the second story of the structure, in a residential loft which would only be used by the owner or an employee of the business. He indicated that as proposed the living space would not be utilized by anyone other than an employee of the business, therefore, constituting a live-work unit. He testified that as a result of this application, the number of parking spaces would be reduced from nine (9) to eight (8). He further testified that there previously had been a fire on the site which required the Applicant to undertake renovations to the structures. He noted that there are approximately 865 square feet which will be available to the commercial use and the apartment will contain 574 square feet.

He further testified that the C-2 Zone for the Town of Dover allows ground floor commercial uses with housing above. The issue for this application is the fact that variance relief is needed since with the front building, they are seeking to have two (2) principal uses on the property.

Next, he reviewed the Municipal Land Use Law at N.J.S.A. 40:55D-2 testifying that there were a number of special reasons that justified the granting of the variance relief being sought. He first noted that this is a specific piece of property that has been uniquely developed with two (2) structures each of which has frontage on a major thoroughfare. Second, he testified that this was an appropriate use that promoted the public's health, safety, morals and general welfare since it represented the reasonable activity on the parcel located in a Zone which permitted the commercial uses. Next, he testified that this is an example of providing sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses. The fact that

this would be a live-work environment also goes to addressing the deficiency in parking. Next, he noted that this promoted a desirable visual environment through creative development techniques and good civic design and arrangement since it was making use of existing structures on the parcel in an appropriate manner. He also pointed out there was no negative impact to the public good nor the zone plan or zone scheme of the area since they were intentionally limiting the number of people who might visit the site given the restriction they offered since they specifically indicated any use located on site would be low intensity and operated by the owner.

A report from Stephen Hoyt, Board Engineer, dated March 13, 2025, was reviewed at the time of the hearing. Mr. Hoyt pointed out that the Applicant should provide a zoning table on plans to appropriately set forth all Ordinance requirements which they agreed to. He also stated that the application was complete and that they also required a variance for the parking. It was further recommended that the parking lot be striped.

A report from the Board Planner, John McDonough, dated April 3, 2025, was also reviewed at the time of the hearing. Mr. McDonough in pertinent part in his report, stated that the Applicant would need to provide the appropriate testimony in order to qualify for a “d” variance. He noted that in his opinion the testimony provided by Mr. Graviano met the requirements of the law but it was entirely up to the Board to conclude whether approval should be granted.

The meeting was opened to the public and there were no members of the public present expressing an interest in this application.

NOW THEREFORE, the Board of Adjustment makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Board is a request for a use variance relief along with a waiver of site plan approval so as to permit two (2) principal uses to be located on the Subject Property. The Board shall discuss the variance issue first.

Under the Municipal Land Use Law, a Board of Adjustment, when considering a “d” variance, cannot grant relief unless sufficient special reasons are shown and there is no substantial impairment of the intent and purpose of the zone scheme and Zoning Ordinance. In addition, the burden of proof is upon the applicant to establish the above criteria. It is the Board’s responsibility, acting in a quasi-judicial manner, to weigh all the evidence presented before it by both the applicant and all objectors, and reach a decision which is based upon findings of fact and conclusions of law and is not arbitrary, unreasonable or capricious.

The New Jersey Courts have been willing to accept a showing of extreme hardship as sufficient to constitute a special reason. The courts have indicated that there is no precise formula as to what constitutes special reasons unless the use is determined to be inherently beneficial, and that each case must be heard on its own circumstances. Yet, for the most part, hardship is usually an insufficient criteria upon which the Board can grant a variance. In addition, special reasons have been found where a variance would serve any of the purposes of zoning as set forth in N.J.S.A. 40:55D-2. However, in the last analysis, a variance should only be granted if the Board, on the basis of the evidence presented before it, feels that the public interest, as distinguished from the purely private interests of the applicant, would be best served by permitting the proposed use. In these instances, the Board must also find that the granting of the variance will not create an undue burden on the owners of the surrounding properties. The Board also notes the special reasons requirement may be satisfied if the applicant can show that the proposed use is peculiarly suited to the particular piece of property. With regard to the question of public good, the Board’s focus is on

the variance's effect on the surrounding properties and whether such effect will be substantial. Furthermore, in most "d" variance cases, the applicant must satisfy an enhanced quality of proof and support it by clear and specific findings by this Board that the variance sought is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance. The burden of proof is upon the applicant to establish the above criteria.

In reviewing the application, plans and testimony, the Board concludes the Applicant has met the minimum requirements of the Municipal Land Use Law, Case Law and Township Ordinances to a sufficient degree so as to enable the Board to grant the relief being requested.

First, in addressing the affirmative criteria, the Board agrees with testimony provided by Mr. Graviano that this was a unique parcel of land having frontage on two (2) major thoroughfares with an already developed infrastructure which clearly anticipated two (2) uses being located thereon. The Board believes that in this instance this is a good example of an appropriate use in an appropriate location for a variety of uses, promotes a desirable visual environment, and is an example of encouraging cooperation and activities shaping land development with a view of lessening the cost of such development to allow for the more efficient use of land. The Board takes judicial notice of the fact that in this instance, approvals had previously been granted for the site in May of 2013. However, in reviewing that Resolution it became apparent that this substandard sized lot with the restrictions placed upon it made it difficult to find an appropriate tenant to occupy the commercial property. The Board at this time, as was previously done in the original application, concludes the property is particularly suited for the proposed range of uses offered by Mr. Graviano.

Similarly, in addressing the negative criteria, there is clearly a deficiency in parking, however, given the fact that the commercial uses offered up by the Applicant in and of themselves are self-limiting, the Board concludes that the deficiency in parking whereas eight (8) spaces are

required and four (4) provided is not a negative factor which cannot be overcome. The parking spaces on site will generally, based upon uses proposed, be more available in the daytime when the commercial use on the Route 46 side of the tract will be active. The Board also believes it would be economic waste to not allow some kind of commercial activity in this building and that as fashioned by the Applicant and Mr. Graviano, the Board conclude there will be no negative impact to the public good nor the zone plan or zone scheme of the area. It should also be noted that no changes are proposed to the outside of the structure. There will be no changes to the traffic circulation pattern. No impact upon stormwater will result and as previously found by the Board the number of employees, workers on the site will be reduced from previous uses on the parcel. For these reasons, the Board concludes use variance relief may be granted.

As regards the request for waiver of site plan, the Board concludes this too can be granted provided the Applicant satisfies the conditions set forth below in this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment that the application of Angela Guridy for Block 2022, Lot 1, as shown on the Tax Map of the Town of Dover, located at 29 Perry Street, in the C-2 Zone, requesting a use variance and a waiver of site plan approval, be and are hereby granted pursuant to N.J.S.A. 40:55D-70d and N.J.S.A. 40:55D-46, subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved entitled "Live/Work Unit-Change of Use Existing Commercial Building 256 US Route 46 Dover, NJ 07801" prepared by Bersa Architects, LLC, dated 1-23-2025 and consisting of four (4) sheets and survey of property entitled "Survey of Property at 29 Perry Street Town of Dover, N.J. County

of Morris”, dated September 29, 1997 and prepared by Rigg Associates, P.A., consisting of one (1) sheet.

2. The commercial use shall only be operated in accordance with this Resolution and shall be limited to such uses as, by way of example, a barbershop, beauty salon, artist/photography studio, offices, a tattoo parlor, or real estate business. Should there be a question as to a proposed use meeting the above standards, the Board hereby determines that its Engineer and Planner may make a determination as to whether the new use is appropriate and in keeping with the findings and conclusions of this Resolution. In the event they are unable to make that determination, the matter shall be brought back to the Board for a final decision.
3. The tenant operating any business located on site must live on the site.
4. The parking lot shall be striped subject to final review and approval of the Construction Department.
5. The Applicant shall provide a bulk table on the plans subject to final review and approval of the Board Engineer.
6. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board’s Secretary.
7. Certificate that taxes are paid to date of approval.
8. Morris County Planning Board approval, if necessary.
9. The Applicant shall be bound to comply with the representations made before this Board by the Applicant at the public hearing and the same are incorporated herein and are representations upon which this Board has relied in granting the approval set

forth herein and shall be enforceable as if those representations were made conditions of this approval

10. Subject to all other applicable rules, regulations, ordinances and statutes of the Town of Dover, County of Morris, State of New Jersey, or any other jurisdiction.

The undersigned secretary certifies the within resolution was adopted by this Board on April 3, 2025, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on May 1, 2025.

J. Ron Frister, Chairman

The vote on the Resolution was as follows:

FOR:

AGAINST:

ABSTAIN:

Board Member(s) Eligible to Vote:

I certify that the above Resolution is a true copy of a Resolution adopted by the Board of Adjustment on _____, 202__.

Paula Mendelsohn, Secretary

Dated:

Prepared by: Glenn C. Kienz, Esq.

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